

SESSION 2: Public Information Availability

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PROTECTING CRITICAL ENERGY INFRASTRUCTURE INFORMATION AT THE FEDERAL ENERGY REGULATORY COMMISSION

February 15, 2005
Dam Safety 2005
Unifying Dam Safety and Security

Post September 11 Concerns

- Documents available to the public may pose a threat to infrastructure security
- Some members of the public have a need for the information
- How to protect the information without impairing ability of those with a legitimate need to obtain the information

Milestones in Protecting CEII

- Policy Statement on Previously Public Documents issued 10/11/01
- Notice of Inquiry issued 1/16/02
- Notice of Proposed Rulemaking issued 9/5/02
- Final Rule, Order No. 630, issued 2/21/03
- Order on Rehearing, Order No. 630-A, issued 7/23/03
- Final Rule, Order No. 649, issued 8/3/04

October 2001 Policy Statement

- Removed from ready public access oversized documents and those detailing specifications of energy facilities licensed or certificated by the Commission
- Directed public to file FOIA requests for information removed from public access
- Published at 66 FR 52917 (Oct. 18, 2001) see <http://elibrary.ferc.gov/idmws/nvcommon/NVViewer.asp?Doc=9041294:0>

January 2002 Notice of Inquiry

- Set forth Commission's general views on treatment of previously public documents
- Advised filers could seek confidential treatment under existing regulation at 18 CFR 388.112
- Posed numerous issues to be addressed
- Published at 67 FR 3129 (Jan. 23, 2002) see: <http://elibrary.ferc.gov/idmws/nvcommon/NVViewer.asp?Doc=6000569:0>

September 2002 Notice of Proposed Rulemaking

- Proposed regulations regarding submission of critical energy infrastructure information (CEII) and requests to access CEII
- Proposed new position of CEII Coordinator
- Proposed extending CEII protection to information regarding proposed facilities
- Proposed definition of CEII that excludes location information
- Published at 67 FR 57994 (Sept. 13, 2002) see <http://elibrary.ferc.gov/idmws/nvcommon/NVViewer.asp?Doc=9559584:0>

February 2003 Final Rule Order No. 630

- Defines CEII
- Establishes procedures for submitting and requesting access to CEII
- Establishes CEII Coordinator position
- Introduces new category of non-Internet public (NIP) information relating to maps/location diagrams
- Published at 68 FR 9857 (Mar. 3, 2003) see <http://elibrary.ferc.gov/idmws/nvcommon/NVViewer.asp?Doc=9639612:0>

Order No. 649

- Determined project boundary maps did not qualify as CEII, but should be treated as NIP
- Allowed Federal agency requesters to file one request for CEII in a particular docket, and receive subsequent CEII in that same docket
- Permitted agents of owner/operators to get CEII directly from staff with written authorization of owner/operator
- Committed to re-examine effectiveness of CEII rules within one year
- Published at 69 FR 48386 (Aug. 10, 2004) see <http://elibrary.ferc.gov/idmws/nvcommon/NVViewer.asp?Doc=10215551:0>

CEII Definition

- Information about proposed or existing critical infrastructure that:
 - Relates to production, generation, transportation, transmission, or distribution of energy;
 - Could be useful to a person in planning an attack on critical infrastructure;
 - Is exempt from mandatory disclosure under the Freedom of Information Act; and
 - Does not simply give the location of the critical infrastructure.

Critical Infrastructure -- Definition

- Existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.
- Does not distinguish projects based on size or customers served

Non-Internet Public Documents

- General location maps
- Information is maintained in the Public Reference Room, but not available on the Internet
- Public may request the information from staff or from the Public Reference Room

Public Requests for CEII

- Member of the public files a request for CEII under 18 C.F.R. § 388.113
- Requester must demonstrate need for the information and be willing to sign a non-disclosure agreement
- Consultation and notification to submitter where CEII submitted to Commission
- CEII Coordinator determines whether to release CEII
- If CEII Coordinator denies request, requester may file a request for rehearing
- If rehearing is denied, requester may seek review in a court of appeals



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National Inventory of Dams



www.tec.army.mil/nid

National Inventory of Dams

Information on approximately 76,000 U.S. Dams

You're visitor 135116 since 01/25/1998 and 97 for today 11/02/2004

LAKE ANNA DAM & RESERVOIR
VA83005

Record Number:	102227.0
Dam Name:	LAKE ANNA DAM & RESERVOIR
Other Dam Name:	Main Dam
Dam Former Name:	
State ID:	06335-01-01
NID ID:	VA83005
Longitude:	-77.7167
Latitude:	38.0167
Section:	
County:	LOUISA
River:	N ANNA R
City:	HEWLETT
Distance:	15.0
Owner Name:	VIRGINIA ELECTRIC & POWER CO
Owner Type:	P
Dam Designer:	Stone & Webster Engineering Corp.
Private Dam:	BLANK
Dam Type:	RE

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National Inventory of Dams



Development and maintenance of NID authorized in 1986 to provide information for dam safety coordination, research, and effective allocation of Federal resources.

- 1992: Update, CDs produced.
- 1998: Update, Web access and CDs produced.
- 2001: Update, Web access only.
- 2005: Update, Web access only.

National Inventory of Dams

- | | |
|-------------------|----------------|
| - Name | - Height |
| - ID Number | - Hazard class |
| - Lat/Lon | - Outlet gates |
| - Year completed | - Capacity |
| - Last inspection | - Regulator |
| - others | |

**** Sep 12, 2001; NID removed from public access ****

Aug, 2002; public access restored to all fields, except –

- Nearest city/town
- Distance to nearest city/town

Feb, 2005; public access policy under review



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National Inventory of Dams



Federal Guidelines on Dissemination of Dam-Related Data



Security Classification Guide: Protection of Critical Infrastructure and Key Resources Information for Dams and Related Facilities, Oct 2004;

- Information on vulnerabilities - *Official Use Only*
- Emergency Action Plan – Technical Summary – *Official Use Only*
- Failure Consequences and Damage Estimates – *Official Use Only*

→ **Niles' Conclusion:** All NID fields should be unclassified.



Federal Geographic Data Committee: Guidelines for Providing Appropriate Access to Geospatial Data in Response to Security Concerns (Interim Version), Sep 2004;

Considerations for restricting data due to security:

- Risk to security: Are the data useful for selecting one or more specific potential targets, and/or for planning and executing an attack on a potential target?

↳ Uniqueness of information: If the data contain information that pose a security risk, is this sensitive information difficult to observe and not available from open sources?*

↳ Net benefit of disseminating data: If the sensitive information poses a risk to security and is unique to the geospatial data, do the security costs of disseminating the data outweigh the societal benefits of data dissemination?*

→ **FGDC Conclusion:** Safeguarding NID data fields not needed.



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If data needs to be safeguarded, two possible approaches;

- 1) Change the data: remove or modify sensitive information, then make changed data available with no further safeguards.

Ex:	<u>Original Data Field</u>	<u>Data Change</u>
	Latitude/longitude	county
	Hazard classification	(remove)
	Nearest city/town	(remove)

- 2) Restrict the data: establish restriction on access to, use of, or redistribution of data.

- Ex:
- Restrict to certain web domains, i.e. .gov and .mil
 - Password-protected web access
 - Dissemination to recognized and trusted users only



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NID data available from other sources?

- Almanac
- Recreational guides
- Atlas
- Travel maps
- Open conferences
- Field observations
- Numerous websites

Value of open-access NID?

- Consistent reference for research and data analysis activities
- Public access to information needed to implement and enforce laws and regulations
- Minimize duplication
- Minimize government paperwork and information activities
- Support NSDI tenet, “build once, share many times”



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National Inventory of Dams



►► Ultimate Objective ◀◀

*Safe and prudent policy for availability of
information on dams*

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